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1 believed that John Doe HM was struggling with emotional
2 issues?

3 A. Did he ever?

4 Q. Uh-huh.

5 A. After this all was over, yeah.

6 Q. Okay. Tell me what Chief Beardslee told you.

7 A. He said that John Doe HM had had some type of
8 lawsuit, I believe it was, about something that happened
9 in his family.

10 Q. Did he tell you what kind of lawsuit Mr. John
11 Doe HM was involved with?

12 A. I don't recall exactly.

13 Q. Have you learned from anyone the type of
14 lawsuit that Mr. John Doe HM was involved with?

15 MS. OWENS: Other than conversations with
16 counsel?

17 MS. RANDLES: Yes.

18 A. I don't know exactly where I learned it, but
19 I did hear that it had something to do with some kind of
20 sexual thing, but I don't exactly -- I can't remember
21 exactly what it was.

22 Q. (By Ms. Randles) Okay. Child sexual abuse;
23 does that --

24 A. Okay. Yes. That's right.

25 Q. Do you recall when you learned that?

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1 A. That was after this -- after John Doe HM was
2 terminated.

3 Q. Okay. Did you ever receive from Chief
4 Beardslee information that John Doe HM was in counseling?

5 A. No.

6 Q. Okay. Let's move now to the termination
7 meeting itself. At the termination meeting, can you
8 describe for me who was at that meeting?

9 A. I was, John Doe HM was, the chief was. I
10 recall that Chief Eidman and Lieutenant Funkhouser
11 escorted -- and me escorted John Doe HM up to the chief's
12 office. I don't know for sure whether -- I'm pretty sure
13 that Chief Eidman and Lieutenant Funkhouser were not in
14 the office with us. The only people I recall was me, John
15 Doe HM and the Chief Beardslee, but I could be mistaken.
16 There might have been someone else there, but those are
17 the three that I am sure were there.

18 Q. Okay. And at the meeting, how long did the
19 meeting itself take?

20 A. It wasn't very long. No more than a half
21 hour, 20 minutes.

22 Q. Okay. I am going to hand you what's
23 previously been marked as Exhibit 22.

24 MS. MERKLIN VON KAENEL: Did you circulate
25 your 49? I just want to know I have the same thing.

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1 MS. RANDLES: (Indicating).

2 MS. MERKLIN VON KAENEL: Thank you very much.

3 I appreciate it.

4 Q. (By Ms. Randles) Okay. If you will take a
5 minute to look over this document, then I'll ask you some
6 questions about it.

7 A. Okay.

8 Q. Okay. With regard to the meeting held on
9 January 4th, 2006, this appears to be a transcript of that
10 meeting. Do you know how -- who makes these transcripts?

11 A. Who write -- who --

12 Q. Yeah. Do you have -- was there a court
13 reporter or a typist, a police typist in there?

14 A. No. The chief typically would have a
15 recorder and he would record it and then it's transcribed
16 by someone else.

17 Q. Okay. After reading this, do you recall
18 whether there was any -- anything else that occurred
19 during the meeting of January 4th, 2006 that is not found
20 in this document, No. 22?

21 A. Please ask that again.

22 Q. Okay. After reviewing Exhibit No. 22, do you
23 recall whether there was anything else that occurred
24 during that meeting that is not found in this document?

25 A. In the office with the chief?

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1 Q. Yes.

2 A. No.

3 Q. Okay. So then the things -- everything that
4 occurred in that office is found in Exhibit 22 to the best
5 of your recollection?

6 A. Yeah. To the best of my knowledge, yes.

7 Q. Okay. There's one part where it says John
8 Doe HM, unintelligible, halfway down or two-thirds of the
9 way down Exhibit 22?

10 A. Yes.

11 Q. Do you recall what John Doe HM said --

12 A. No.

13 Q. . -- at that point?

14 A. No.

15 Q. At any point in time, did Mr. John Doe HM
16 become loud?

17 A. No.

18 Q. Did he become unruly?

19 A. No.

20 Q. Did he act in any manner unreasonable during
21 the course of the termination?

22 A. No.

23 Q. Okay. You had indicated that you chitchatted
24 with him on the way up to the chief's office. Do you
25 recall what you chitchatted about?

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1 A. Not specifically.

2 Q. Do you recall generally the nature of the
3 topics that you talked about?

4 A. I think John Doe HM was a little surprised at
5 how many people were there. I think he made a comment
6 about that.

7 Q. Okay. Were you the first person that John
8 Doe HM saw on that day?

9 A. I just don't recall that. I don't know.

10 Q. Okay. Do you recall the process? When John
11 Doe HM came in, was he searched?

12 A. He was at one point, but I can't say where it
13 was, and I don't know if searched is the right word. It
14 would be more like frisked.

15 Q. Okay. Like a pat-down?

16 A. Yes.

17 Q. Okay. And were there more than one officer
18 accompanying you up to the chief's office?

19 A. Yes.

20 Q. And that was Officers Eidman and Funkhouser?

21 A. Chief Eidman and Lieutenant Funkhouser.

22 Q. Okay. And what was the purpose for those
23 individuals accompanying everyone?

24 A. The concern about John Doe HM's reaction. We
25 didn't want anybody else involved other than the command

1 staff, we didn't want a scene, and we certainly didn't
2 want one of his peers having to take action if something
3 got out of hand.

4 Q. Okay. And when you say take action in case
5 something got out of hand, do you mean some sort of
6 physical altercation?

7 A. Yeah. Yes.

8 Q. Have you ever had a situation where an
9 individual who has been terminated has engaged in any kind
10 of physical altercation?

11 A. No, but I'm aware of what one person's wife
12 did.

13 Q. Oh, that sounds like a good story. What did
14 one person's wife do?

15 A. The wife was very unruly, and we were
16 concerned enough -- enough -- enough that there might have
17 been some physical altercation, but it never came to that.

18 Q. Have you terminated other individuals besides
19 John Doe HM where you've been involved in the termination
20 process?

21 A. Yes and no. I mean, we terminated someone,
22 but he was brought back, so I don't know how to explain
23 that, --

24 Q. Okay.

25 A. -- but, yes, I was.

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1 Q. During that termination process, before he
2 was brought back, did you have the same kinds of safety
3 precautions that you exercised with Mr. John Doe HM?

4 A. Yes. We -- we did have more than just me,
5 and there were other commanders involved in it, and, yes,
6 I believe we did.

7 Q. Okay. And with regard to the individual
8 whose wife became unruly, did you also have the same kind
9 of safety procedures in place?

10 A. No, because that happened like that [snapped
11 his fingers] and we didn't expect it.

12 Q. Okay.

13 A. And I think based on the fact that we didn't
14 expect that, we were not going to do that again.

15 Q. Okay. That was -- did that precede John Doe
16 HM's termination?

17 A. That was before -- yes, before John Doe HM's
18 termination.

19 Q. Okay. Now, at the time of the termination
20 meeting, obviously you knew that John Doe HM was out of
21 the hospital?

22 A. Please say that again.

23 Q. I said at the time of the termination
24 meeting, obviously you knew that John Doe HM was out of
25 the hospital?

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1 A. Yes.

2 Q. And at that time, you knew he had not been
3 kept for 96 hours, correct?

4 A. No. I didn't know that. I still don't know
5 how many hours he was kept.

6 Q. Okay.

7 A. I've heard different numbers.

8 Q. Okay. What numbers have you heard?

9 A. Ninety-six, 72.

10 Q. Okay. At the time that you prepared the --
11 the investigation or the complaint, rather, I should say,
12 did you know that John Doe HM was out of the hospital?

13 A.. At the time I prepared the complaint?

14 Q. Yes.

15 A. It was prepared on the 2nd, so, no, I was not
16 sure of whether he was out of the hospital or not.

17 Q. Okay. At the time that you talked to him on
18 the telephone and said, Don't come back in, we'll call
19 you, don't call us, we'll call you, essentially, at the
20 time of that conversation, did you know he was out of the
21 hospital?

22 A. I can't say for certain.

23 Q. Okay. Who did you learn that he was out of
24 the hospital -- from whom did you learn that he was out of
25 the hospital?

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1 A. I don't recall.

2 Q. Did you at some point before the meeting
3 learn that he had been released?

4 A. Before the termination meeting?

5 Q. Yes.

6 A. I believe so, but I can't tell you how. I
7 don't remember.

8 Q. Okay. Did you know that he had been released
9 as soon as the doctors saw him at the hospital?

10 A. Did I know that?

11 Q. Uh-huh.

12 A. No.

13 Q. Okay.

14 MS. RANDLES: Let's go off the record for
15 just a minute.

16 [Discussion was held off the record.]

17 [Lunch break was taken.]

18 Q. (By Ms. Randles) All right. We took a break
19 for lunch, and now that we're back on the record, you know
20 you're still under oath?

21 A. Yes.

22 Q. You indicated that you thought that perhaps
23 Chief Beardslee was the one who handled the investigation
24 for termination of John Doe HM. Do you know how many
25 occasions Chief Beardslee handled investigations for

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1 termination?

2 A. For termination?

3 Q. Yes.

4 A. He probably handled most of those.

5 Q. Okay. And he would do the investigation
6 himself?

7 A. At times. There would be combinations of who
8 did the investigation, but it's his final determination
9 who would be terminated, so he would probably do some type
10 of investigation.

11 Q. Okay. Okay. So with regard to John Doe HM,
12 it's your recollection that he handled the investigation
13 in its entirety, is that correct, or your belief I should
14 say?

15 A. Well, my belief would be he -- he did it,
16 because all I did was fill out the internal investigation
17 and get the copy of the police report.

18 Q. Okay. Now, do you -- with regard -- I'm
19 doing some cleanup, so we're going to jump around a little
20 bit, but with regard to the safety alert that was sent out
21 to individuals of the police department at Creve Coeur, do
22 you know whether or not any of the other municipalities
23 surrounding Creve Coeur received a similar safety alert
24 with regard to John Doe HM?

25 A. I don't know.

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1 Q. Okay. Do you know whether it's standard
2 operating procedure to send safety alerts to other
3 surrounding municipalities in a situation like the John
4 Doe HM situation?

5 A. I don't know that. I have never had that
6 experience, so I don't know.

7 Q. Okay. Do you know -- have there been any
8 occasions that you're aware of in which a safety alert has
9 been sent to other municipalities?

10 A. Creve Coeur Police Department sent out safety
11 alerts --

12 Q. Yes.

13 A. -- on their own officers? .

14 Q. To -- yes, to other municipalities.

15 A. Not that I'm aware of.

16 Q. Okay. Do you know if Creve Coeur has sent
17 out safety alerts concerning other members of the public
18 to other municipalities?

19 A. Members of the public?

20 Q. Yes.

21 A. Yes.

22 Q. Okay. Does that happen frequently?

23 A. Oh, yes.

24 Q. Okay. What kinds of situations arise that
25 would cause Creve Coeur to send safety alerts to other

1 municipalities?

2 A. Instances where someone may have a workplace
3 violence type situation that may occur, you know, somebody
4 gets fired from a particular job, schools, school type
5 situations, I mean, they're considered like BELOS, be on
6 the alert, be on the lookout for safety. The
7 hospitals, St. John's in particular, has people who show
8 up who are safety concerns and that all the officers need
9 to know about who they are. Monsanto occasionally would
10 have a safety alert on somebody that they may have fired
11 to let us know that if the guy comes back on, there could
12 be a workplace violence type thing, so, yes, we -- we've
13 had other safety alerts.

14 Q. Okay. And do you know what the process is --
15 does this differ from like an all-points bulletin or
16 point-to-point?

17 A. Yeah.

18 Q. Okay.

19 A. Yes.

20 Q. And how does it differ?

21 A. Because we probably work in most cases with
22 the security department of St. John's or Monsanto and --
23 and alert them to -- or they alert us to who the person is
24 and we inform our officers with photographs and stuff of
25 what the person looks like and the circumstances so that

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1 they can be aware if this guy shows up.

2 Q. Okay. And is this something that you
3 dispatch to other municipalities, --

4 A. No.

5 Q. -- or is it something that you send to them
6 or that you communicate to them in some other manner?

7 A. We would probably communicate in some other
8 manner.

9 Q. Okay.

10 A. We just wouldn't sent it out to no -- just
11 to, here, take a look at it. We would probably send it to
12 a particular individual.

13 Q. Okay. Okay. Now, we talked some about the
14 -- the investigative report, feel free to refer to it if
15 you like, or the complaint, rather, the investigative
16 complaint?

17 A. Mm-hm.

18 Q. Now, you indicated that you received a call
19 from Sergeant Chellis, I believe it says on a Sunday in
20 the report.

21 A. Saturday.

22 Q. On a Saturday. Okay. Did he call you via
23 cell phone or did he call you at home?

24 A. He called me at home.

25 Q. Okay. Do you have a cell phone?

1 A. Yes.

2 Q. Okay. Now, when you called John Doe HM, do
3 you recall whether you called him on your cell phone or
4 whether you called him from your home phone or from the
5 work phone?

6 A. I think I called him from my office phone.

7 Q. From your office phone? Okay. And when you
8 talked to Sergeant Lasater, do you know whether you called
9 him from your office phone, your home phone or your cell
10 phone?

11 A. On Saturday, it probably would have been on
12 my home phone, but I request -- I think I called him back
13 and requested a copy of the report, and that probably was
14 on my office phone.

15 Q. Okay. Okay. When -- I want to talk to you
16 for a minute about videotaping and recording of
17 information. I understand that there are videotapes in
18 the Creve Coeur police cars; is that correct?

19 A. Yeah, in-car -- yes, in-car digital cameras,
20 yes.

21 Q. Okay. And then is there also audio
22 recording?

23 A. Yes.

24 Q. Okay. The audio recording, is it part of the
25 in-car digital video or is it a separate recording device?

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1 A. No. It's part of the -- the system.

2 Q. Okay. Do officers carry any kind of
3 recording devices with them on a regular basis?

4 A. They're supposed to have a microphone.

5 Q. Okay. And is that connected then to their
6 vehicle?

7 A. It transmits back to the vehicle, yes.

8 Q. Okay. Do they have a recording device
9 besides the microphone on their person?

10 A. They carry audio cassette recorders, --

11 Q. Okay.

12 A. -- the small, personal audio cassette
13 recorders.

14 Q. And is that the kind of thing that comes on
15 automatically whenever there's a stop, --

16 A. No.

17 Q. -- or is it something you have to --

18 A. You have to turn that one on manually.

19 Q. Okay. Okay. Now, what are the protocols or
20 what are the responsibilities for audio taping whenever
21 there is an incident?

22 A. Any time that an officer contacts a citizen,
23 makes a citizen contact, he's supposed to record it --

24 Q. Okay.

25 A. -- via his personal recorder.

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1 Q. Okay. And does that include traffic stops?

2 A. Yes.

3 Q. So any contact of any sort whatsoever with a
4 citizen, they're supposed to record that?

5 A. Supposed to.

6 Q. Okay. And is there any other situations
7 where recorders are supposed to be used?

8 A. Well, the investigations, if -- your serious
9 crimes, the detective's policy is to videotape
10 their interviews with suspects. I believe -- it has been
11 a while since I've been in investigations, but I believe
12 even it's a mandate of the prosecuting attorney for
13 homocides for sure now to videotape it. That's the only
14 other policy I can think of off the top of my head.

15 Q. Okay. Are witness statements video or audio
16 taped on a regular basis?

17 A. Occasionally, but not -- there's no mandate.

18 Q. Okay. Okay. And with regard to internal
19 affairs proceedings, are internal affairs proceedings
20 video or audio taped?

21 A. If you are interviewing the officer who the
22 complaint is alleged against, most of the time, they are
23 recorded.

24 Q. Okay. Okay. Do you ever have situations in
25 which your video or audio tape becomes evidence for

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1 another municipality's police department or prosecution
2 for another municipality?

3 A. I can't think of any, but I'm sure it could
4 happen, that we could use -- we would use tape -- hold a
5 tape for somebody else. I can't think of right now an
6 instance.

7 Q. Okay. Do you know if you have used any tape
8 in an investigation from St. Louis County?

9 A. A tape? A videotape?

10 Q. Any kind of video or audio.

11 A. I can't think of a specific case.

12 Q. Okay. Do you have any knowledge as to
13 whether or not St. Louis County has the ability to either
14 video or audio tape individuals?

15 A. I don't know what their procedures are and
16 what they have.

17 Q. Okay. Okay. I am going to hand you what's
18 previously been marked as Exhibit 3. Did you review this
19 document as part of your preparation for today's
20 deposition?

21 A. No.

22 Q. Okay. Have you ever seen this document
23 before?

24 A. I can't recall specifically, but I was on
25 John Doe HM's background board to be hired, so I probably

1 did review it at some point. I almost had to.

2 Q. Okay.

3 A. But I don't specifically -- can't tell you
4 yeah until -- nothing is jumping out at me yet.

5 Q. Do you have any idea who would have written
6 that?

7 A. Well, yes. It was written by Detective Tom
8 Rich.

9 Q. Okay. And where do you find that?

10 A. On the last page. It says, Respectfully
11 submitted, Detective Thomas Rich.

12 Q. Oh, okay. I looked all over that and
13 couldn't find his name. Thank you. Okay. You said you
14 were on the board that looked at John Doe HM's background
15 information. Can you describe for me how police officers
16 are hired at Creve Coeur?

17 A. Well, it's -- they come in and they put an
18 application in, obviously, it's a fairly large document,
19 maybe 10, 12 pages, with a lot of information, at which
20 time the admin commander, because we have I guess so many
21 of them, he goes through them and looks for -- him and his
22 admiree, they look for people who fit our specifications;
23 for instance, one of the things is -- is college, some
24 college, so that's one of the things that might disqualify
25 somebody.

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1 So they go through the list of applications. They
2 call them down to people that they feel would be
3 possibilities. It's then submitted -- the application is
4 then sent to -- we have changed the procedure a little bit
5 in the last couple of years, but ultimately it goes to --
6 and I am going to be a little bit out of sequence here
7 when I say this -- it goes to a background investigation,
8 which is usually the -- the detective usually handles
9 that.

10 The investigation's commander then brings the
11 person in and does some questions, some specific
12 questions, integrity type questions. Oh, I did forget one
13 step. The admin commander does kind of a -- some tests
14 with regards to the person's integrity, their learning
15 capability, and physical requirements, whether they pass
16 the physical requirements, then it goes on to the next
17 step, which would be the background and the admin
18 commander asking some more integrity type questions, then
19 goes to a CVSA, which is similar to -- most people would
20 know the polygraph, but they don't know what the CVSA is,
21 a computer voice stress analysis, which is similar to a
22 lie detector, and one of the detectives gives them one of
23 these tests, and then based on that, it goes to the chief,
24 and the chief reviews it and sends down to the admin
25 commander, you know, Let's set something up to talk to

1 these individuals.

2 It then goes to the board, which usually is
3 comprised of me, the chief and another commander, and we
4 ask the candidate various questions, basically from our
5 knowledge and experience of what it takes to be a police
6 officer, and we discuss that, make a recommendation to the
7 chief, and he decides whether or not to hire the
8 individual.

9 Q. Okay. Do you recall whether or not you made
10 a recommendation with regard to John Doe HM?

11 A. I must have, but I can't recall exactly what
12 I said, but I had some questions.

13 Q. Okay. Do you recall the kinds of questions
14 that you had?

15 A. Yes.

16 Q. What were they?

17 A. I was a little concerned that John Doe HM was
18 going out with one of our dispatchers. I knew that that
19 wasn't going to be a good thing. I know that he had lost
20 a lot of weight, you know, and he should have been
21 applauded for that, but I was wondering whether or not he
22 would be able to keep the weight off to pass, you know,
23 further physical requirements, which we have since
24 instituted, and I was a little -- I was mostly concerned
25 about whether or not -- the issue with his wife and

1 Crystal. I didn't see that -- it hadn't been resolved,
2 and I didn't know how that was going to be resolved.

3 Q. Okay.

4 MS. MERKLIN VON KAENEL: If I can stop, it's
5 1:30.

6 MS. RANDLES: All right.

7 MS. OWENS: Okay. Can we go off the record.

8 [Break was taken for a conference call to the judge.]

9 Q. (By Ms. Randles) Now, it seems like it's
10 been forever ago, but the last time that we were on the
11 record and we were discussing this, we had just talked
12 about the background information concerning John Doe HM,
13 and you indicated that you had some concerns about the
14 relationship he had with Crystal Marshall?

15 A. Yes.

16 Q. Okay. Your concerns about Crystal Marshall,
17 did they have anything to do with the fact it was Crystal
18 Marshall?

19 A. Partially, but mostly it was because it was
20 an employee of the police -- another employee of the
21 police department.

22 Q. Okay. And you said it was partly because of
23 your concern about Crystal Marshall. What -- what were
24 your concerns in that regard?

25 A. Well, I think I have already discussed some

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1 of the things about Crystal Marshall, and I wasn't really
2 a fond -- I didn't really like Crystal Marshall that much,
3 to put it bluntly.

4 Q. Okay. That's fair enough. Not everybody
5 likes everybody. But with regard to Crystal Marshall's
6 influence in the environment at the police department, did
7 you find her to be a disruptive force?

8 A. She was a -- since she's a dispatcher, she
9 really didn't have a lot -- I didn't really have a lot of
10 connections with her. I didn't -- I didn't supervise her,
11 but I cannot recall anything specifically where she was a
12 disruptive force. That would probably be a question
13 better for the dispatcher commander at the time.

14 Q. Okay. Were you aware of her dating any other
15 individuals who were on the force?

16 A. On the force?

17 Q. Yes.

18 A. I don't believe so.

19 Q. Okay. Were you aware of her dating any other
20 police officers in the surrounding communities?

21 A. Yes, but I don't -- I don't know into what
22 time frame that falls. I don't know if it was before or
23 after.

24 Q. Okay. Who did you know that she had dated at
25 some point?

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1 A. Some police officer from Overland.

2 Q. Was that individual married to your
3 knowledge?

4 A. Yes.

5 Q. Okay. You had indicated that you weren't a
6 fan of her, that you and she didn't get along
7 particularly, and that happens in any organization, but
8 was there any particular issues that you thought Crystal
9 brought to the police force that you didn't care for?

10 A. I really can't put my finger on anything that
11 she did at work that -- I just didn't like her character
12 overall.

13 Q. Okay. Was there ever a time when you were
14 concerned that Crystal Marshall was less than credible?

15 A. Oh, yeah.

16 Q. Okay. And can you describe that for me?

17 A. Well, the incident that I had with her, I
18 think she was less than credible.

19 Q. Okay. And how so? What did she do?

20 A. Well, I believe she exaggerated how affected
21 she was by whatever occurred. I believe she made up what
22 I said. Now, again, I go back on -- say I yelled at her.
23 There's no doubt about that. And I may have used some
24 curse words, but there were no curse words directed at
25 her, they were directed in a larger vein, and she took

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1 them to -- personally that I was directing them completely
2 at her, and that's the way she presented it, and my
3 understanding is that's the way it was perceived and
4 that's what happened. I think she lied.

5 Q. Okay. Have you ever in your 30-year career
6 been disciplined on any other occasion for cursing at an
7 employee?

8 A. For cursing at them?

9 Q. Mm-hm.

10 A. No. I yelled at an employee before.

11 Q. Were you ever disciplined for yelling at any
12 other employee besides Crystal Marshall?

13 A. Mm-hm. Yes.

14 Q. On how many occasions?

15 A. Once.

16 Q. How long ago was that?

17 A. In about the same time frame as that -- that
18 one, afterwards, maybe a year after that. I don't exactly
19 know the dates, but 2000 and -- I'm not sure.

20 Q. Okay. In that situation, did you receive a
21 suspension?

22 A. Written reprimand.

23 Q. Okay. In that situation, did you believe the
24 employee had lied concerning the events in that one?

25 A. He misunderstood what happened, yeah. I

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1 wouldn't say he lied. He misunderstood.

2 Q. Okay. But where Crystal Marshall is
3 concerned, you believe that she embellished the truth?

4 A. Yes.

5 Q. Had you ever heard rumors, and I know this is
6 hearsay, but have you ever heard rumors of Crystal
7 Marshall being -- embellishing a truth or being less than
8 credible?

9 A. I can't say for a fact. I just know what I
10 think myself.

11 Q. Okay. Do you know if she had a reputation
12 around Creve Coeur as being less than credible?

13 A. I believe in some instances, yes.

14 Q. You say in some instances. Is there
15 something specific you're talking about?

16 A. No. People -- but people talk about one
17 another and say what they -- the character of other people
18 in conversation when things come up about what happened.

19 Q. Okay. And with regard to Crystal Marshall,
20 it was your understanding that her reputation was that she
21 was less than credible?

22 A. That's my belief, that she's less than
23 credible. I can't say what other people thought.

24 Q. Okay. Do you know of any other officer who
25 has undergone counseling who is a police officer? I'm not

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1 going to ask you identifying information.

2 A. Yes.

3 Q. Okay.

4 MS. OWENS: Can I ask you, if you can, speak
5 up a little bit? I think he's having a hard time hearing
6 the questions still.

7 MS. RANDLES: Okay. Chief, can you hear me?

8 This is Rebecca.

9 DEFENDANT BEARDSLEE: I can hear Stacie fine,
10 every time you talk.

11 MS. OWENS: That's actually Miss Randles.

12 DEFENDANT BEARDSLEE: Oh, I understand, but
13 I'm saying I can hear you, Stacie, every time you talk.

14 MS. OWENS: Oh.

15 DEFENDANT BEARDSLEE: Okay. So I'm just
16 stating that. Okay? I cannot hear the other speakers
17 consistently.

18 MS. OWENS: Okay.

19 MS. RANDLES: All right.

20 MS. OWENS: I'm sorry to interrupt you.

21 MS. RANDLES: No. That's perfectly fine. I
22 will try to keep my voice up. I'm losing it. That's one
23 of the problems.

24 MS. OWENS: Yeah.

25 Q. (By Ms. Randles) Okay. And again, I am not

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1 looking for any identifying information of any kind
2 whatsoever concerning any officer in this series of
3 questions. Okay?

4 A. Okay.

5 Q. But how many individuals do you know who have
6 -- are members of the police force -- have been members of
7 the police force that have undergone counseling?

8 A. Have been or currently are?

9 Q. [Nodded head].

10 A. Have undergone what type of counseling?

11 Q. Any kind of psychological counseling.

12 A. Oh, okay.

13 MS. OWENS: Are you going to narrow that in
14 time? I mean, he's been there 30 years. Do you want to
15 do 30 years?

16 MS. RANDLES: Well, if he says 300 --

17 A. I wouldn't know about those that happened
18 before I became a commander, because that's privileged
19 information, so probably just since -- from 1999 is when I
20 would be more in the loop as to what happens to particular
21 officers. I can recall two for sure, and there may be
22 more, but I right now can't think of who they might be,
23 but two for sure I can recall have had counseling.

24 Q. (By Ms. Randles) Okay. And with regard to
25 those two, were either of them for marital counseling?

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1 A. For marital counseling?

2 Q. Yes.

3 A. No. They were, my understanding is, for fit
4 for duty.

5 Q. Okay.

6 A. And now, again, just having recalled that, I
7 believe one of our sergeants because he was involved in a
8 shooting, so that -- but that had nothing to do with -- I
9 believe, so that makes three that I'm aware of now.

10 Q. Okay. With regard to the two, not the
11 sergeant who was involved with the shooting, we'll put him
12 aside, but with regard to the other two, was -- did the
13 counseling in any manner affect their job position?

14 A. I don't know.

15 Q. Are both of them still employed by Creve
16 Coeur?

17 A. No. One is. Only one.

18 Q. Okay. Do you know if one of them was
19 terminated as a result of the fit for duty examination?

20 A. I don't know.

21 Q. Okay. Were both of these individuals seeking
22 counseling or fit for duty examinations during the time
23 that Chief Beardslee was the chief?

24 A. One for sure. The other one, no.

25 Q. Who was the chief at the time that Beardslee

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1 wasn't?

2 A. Acting chief, Don Kayser. He was the
3 captain.

4 Q. And on these two situations, was this
5 individual counseling that they sought or was this a fit
6 for duty evaluation that was requested by the police
7 department?

8 A. I'm pretty sure they were requested by the
9 police department. One of them I'm sure, the other one
10 I'm not so sure, because I was actually involved in one of
11 them.

12 Q. Okay. And the one that was -- that took
13 place when Chief Beardslee was the chief, is that
14 individual still with the department or is that one
15 terminated?

16 A. Terminated.

17 Q. Were you part of the termination process on
18 that situation?

19 A. No.

20 Q. Do you know the reasons for -- the
21 termination occurred?

22 A. Yes.

23 Q. And what was the reason given?

24 A. He refused to take a polygraph test or a
25 CVSA. We use a CVSA.

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1 Q. Was it surrounding a particular incident that
2 occurred -- that had occurred?

3 A. Alleged to have occurred, yes.

4 Q. Okay. And was it an incident that occurred
5 at work or was it an off duty incident?

6 A. Off duty.

7 Q. Without giving any identifying information,
8 can you describe for me the incident that occurred in
9 which the individual refused to take the CVSA?

10 A. I don't -- the incident that he's accused of?

11 Q. Yes.

12 A. He was accused of -- I don't want to get the
13 term wrong, but I believe it was sexual assault of his
14 daughter.

15 Q. Is this one that was subsequently prosecuted
16 in the City of St. Louis?

17 A. St. Louis City arrested him, but never
18 prosecuted him.

19 Q. Okay. Aside from these two fit for duty
20 evaluations, do you know of any other individuals who had
21 undergone psychological counseling and the sergeant who
22 was involved in the shooting?

23 A. I don't recall any.

24 Q. Okay. In your estimation, does the fact of
25 counseling in any way raise questions concerning an

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1 individual's ability to function on the job?

2 A. The result?

3 Q. No. I'm sorry. Let me rephrase that. In
4 your estimation, does the fact that an individual is in
5 therapy or in counseling have any impact on the
6 individual's ability to do his job?

7 A. Not if he's in -- if he's actually seeking
8 counseling, no. I mean, I would wait for the
9 recommendation of the counselor or the mental health
10 professional before I determined whether or not the
11 officer was fit for duty.

12 Q. Okay. Now, in situations where an individual
13 isn't up for a fitness for duty examination, but he is in
14 counseling for personal issues, does the mere fact that
15 he's in counseling raise any concerns for the Creve Coeur
16 Police Department about his ability to do his job?

17 A. Well, I would think it would determine -- it
18 would -- it would determine -- it would matter what he was
19 being counseling -- in counseling for, and I am not
20 exactly sure how I would know he was in counseling to
21 begin with unless he told me or she told me what it was
22 for.

23 Marriage counseling, I'm not sure whether that is
24 -- on the face of it have anything to do with fit for
25 duty, --

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1 Q. Okay.

2 A. -- but it could, but I guess it depends on
3 what the person is being counseled for --

4 Q. Okay.

5 A. -- and if I even know about it.

6 Q. Would it raise concern for you to know that
7 one of your officers was in counseling because he had been
8 sexually abused as a child?

9 A. Not really.

10 Q. To your knowledge, would it raise concerns
11 among the command staff if an individual were known to
12 have sought counseling for trauma as a child?

13 MS. OWENS: Objection. Calls for
14 speculation. If you know, if you have personal knowledge.

15 A. I don't know.

16 Q. (By Ms. Randles) Okay. To your knowledge,
17 did the fact that John Doe HM was in counseling prior to
18 12/31 raise any concern among the command staff regarding
19 his ability to perform?

20 A. We didn't know about it, so it couldn't have.

21 Q. Okay. When you say we didn't know about it,
22 I assume you mean that you, Captain Hodak, didn't know
23 about it, correct?

24 A. I did not know about it.

25 Q. Okay. And you said we didn't know about it.

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1 Do you know if any of the other command staff knew about
2 it?

3 A. I'm confident that most of the other
4 commanders knew nothing about it.

5 Q. And why are you confident?

6 A. Because, since that time, we were notified of
7 it, and we all said, Didn't know it.

8 Q. Okay. And who notified you of the fact that
9 he was in counseling?

10 A. Chief Beardslee.

11 Q. At what point in time did he do that?

12 A. Sometime after John Doe HM was terminated.

13 Q. Okay. I am going to hand you what's
14 previously been marked as Exhibit 18. I'll give you a
15 minute to look that over.

16 A. A minute probably is not going to be long
17 enough.

18 Q. Okay. You may have as much time as you like
19 to look it over.

20 A. Okay.

21 Q. Okay. Do you recognize the document I handed
22 you that's been previously marked as Exhibit 18?

23 A. Yes.

24 Q. Can you describe for me what that exhibit is?

25 A. Well, it's a -- I was looking at the front

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1 here. It appears to be a six-month evaluation of Officer
2 John Doe HM's performance.

3 Q. Okay.

4 A. It's marked six-month and annual, and that's
5 what I was kind of trying to determine, which one it was.

6 Q. Okay. Now, I have also given you Exhibit
7 19, --

8 A. Mm-hm.

9 Q. -- and I'm wondering how these two documents
10 fit together.

11 A. Is this -- this is from this?

12 Q. No. I -- it appears to me that Exhibit 19
13 has your signature down at the bottom; is that correct?

14 A. Yes.

15 Q. Okay. So Exhibit 18, is this the document
16 that comes to you from the -- from the sergeants, the
17 supervising sergeants?

18 A. This is the template of the document, and,
19 yes, it would be, but I can't determine what the date --
20 oh, here's the date on here. Okay. This is probably his
21 -- his -- his final evaluation, before he's either
22 recommended or not recommended to come off probation, and
23 this would be attached. The final score is attached to
24 the back of the evaluation.

25 Q. Okay. So Exhibit 18 and 19 would actually be

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1 the same document, it would be part of the same document?

2 A. It should be, but I'm going to verify this
3 here. Yes. It looks like the scores are the same scores
4 down here, so it would be the -- should be from the same
5 document, yes.

6 Q. Okay. And with regard to this document,
7 which sections did you have any input concerning?

8 A. Oh, I couldn't tell you without looking at my
9 officer performance files myself, but it would depend on
10 whether I agreed or didn't agree with what the verbiage
11 was in some of these statements and whether or not I could
12 point to the fact that this is the reason I don't agree
13 with this.

14 Q. Okay. And then so do you then -- when this
15 document comes to you for your review, do you have the
16 opportunity to change the information that's on it?

17 A. Suggested changes, but if the sergeants are
18 adamant about the fact that that's what they feel, then I
19 don't make them change it.

20 Q. Okay. All right. I was just curious how
21 that process worked. All right.

22 A. I suggest changes where I think they're
23 appropriate or I see something that the sergeant hadn't
24 seen, which happens occasionally, and I say, We'll put in
25 a little note off to the side and say, Did you realize

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1 this, this or this, and if the sergeant said, No, I
2 didn't, and does that -- does that change the score of the
3 officer, yes or no, sometimes good, sometimes bad.

4 Q. Okay. Now, on this particular one, is it
5 safe to assume this is the final document since it has
6 John Doe HM's signature on it?

7 A. Well, since they're detached, they're usually
8 together, but the scores are exactly the same. If you
9 look at the bottom of one of the pages, like page number
10 eight, which is essential job function five, it says,
11 Total rating is .33. If you look on here, it's .33. They
12 all match, so it appears as though it's from the same
13 document.

14 Q. Okay. Okay. And then this would -- since it
15 appears that they're from the same document, it would also
16 appear that this is the final document? This is the final
17 approved document?

18 A. With -- with the fact except for my memo,
19 which I would have attached to this also, that says he's
20 off probation.

21 Q. Okay. So this document -- document 18 should
22 actually include 18, 19 and whatever number your
23 memorandum was?

24 A. Yes. My memorandum would be attached to
25 this.

1 Q. Okay. Okay. And you have had an opportunity
2 to review the -- the performance appraisal. Was there
3 anything in the performance appraisal that at this time
4 you disagree with?

5 A. That I disagree with now?

6 Q. Sure.

7 A. It's very difficult to say, because we're not
8 in the same time frame.

9 Q. Sure. Is there anything in the performance
10 appraisal that you recall you disagreed with at the time
11 that it was written?

12 A. No. I don't recall.

13 Q. Okay. Now, there was -- in the performance
14 appraisal, there is an indication that Mr. John Doe HM had
15 said something negative about command staff. It's on page
16 six, performance criteria 3(d), He has been heard by
17 command staff as making negative comments. Do you recall
18 anything about that?

19 A. No.

20 Q. Okay. This indicates on the very front page
21 that Sergeant Kellogg and Sergeant McCrary are the
22 supervisors. Would this document have been prepared
23 jointly by them, or is one of them responsible for
24 preparing the evaluation?

25 A. They do it together.

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1 Q. Okay.

2 A. Now, one sergeant will probably do the actual
3 typing, but he takes information from the other sergeant,
4 and they're encouraged to do them together.

5 Q. Okay.

6 A. In this particular case, I can't speak for
7 whether they did this one together themselves, but
8 Sergeant McCrary and Sergeant Kellogg were always pretty
9 good at doing information together.

10 Q. Okay. All right. So one person isn't
11 responsible for the appraisal, it's whoever the
12 supervising sergeants are?

13 A. Team. Supervising team.

14 Q. Okay. Now, do you recognize the other
15 signatures on here? I'm having difficulty reading them,
16 and so I was just wondering if you knew whose signatures
17 those were.

18 A. Signature, employee, is John Doe HM.

19 Supervisor one is James Kellogg. Supervisor two is
20 Charles McCrary. And then I'm the department division.

21 Q. Okay. Thank you. Okay. If you would look
22 at the essential job functions number four, safety, that
23 -- it states, Officer John Doe HM uses good safety
24 practices during his traffic stops. What does that mean?

25 A. Well, he -- essentially what officers do when

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1 they stop a car is the -- whether they offset their
2 vehicle from perpetrator they're stopping, whether they
3 angle their car to give themselves cover, whether they
4 approach their car correctly, you know, from the driver's
5 side or the passenger side approach, how they interact
6 with the driver, you know, whether they stand in the fatal
7 funnel or whether they don't stand in the fatal funnel,
8 whether the door can -- the door can open up and hit them
9 and knock them into the roadway, how they proceed back to
10 their unit to write a ticket so they don't turn their back
11 on the violator, how they're sitting in the car while
12 they're watching the violator to make sure they look up
13 once in a while to make sure the guy don't jump out and
14 shoot them, there's a whole bunch of things that go along
15 with the safety of a traffic stop.

16 Q. Okay. Okay. And I would assume that it is
17 imperative for the safety of the officer that they engage
18 in -- avoid high-risk behaviors such as standing right
19 where the door could knock them into traffic and that kind
20 of thing? It's a safety --

21 A. It's a safety --

22 Q. Yeah.

23 A. -- for their own safety.

24 Q. For their own safety. Okay.

25 A. Yes.

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1 Q. Now, have you had any input in the position
2 statement that was filed in this matter with the EEOC?

3 A. Since I don't know what that is, I am going
4 to have to say no.

5 Q. I'll show you the position statement, but I
6 am going to assume that your answer is going to remain the
7 same. Okay. I am going to show you what's previously
8 been marked as Exhibit 29, and have you ever seen that
9 document before?

10 A. No.

11 Q. Okay. Now, a position statement is a
12 statement of position for the city that is given to the
13 EEOC, and did you ever -- I don't want to know what was
14 said, but did you ever meet with attorneys concerning
15 information found in that statement?

16 A. No.

17 Q. Okay. Did you ever have any incidence
18 involving John Doe HM in which you believe that he showed
19 issues of poor judgment?

20 A. I believe the auto accident that he had was
21 pretty poor driving judgment. I believe it was his fault,
22 and if I recall correctly, he failed to yield.

23 Q. Okay. Are auto accidents something that
24 happen occasionally at the police department? Police
25 officers are --

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1 A. You are talking to the wrong person there.

2 Q. Okay.

3 A. I -- I disagree with that they should happen
4 occasionally.

5 Q. Okay. Do they happen occasionally?

6 A. Yes. They do.

7 Q. Okay. Approximately how often would you
8 estimate in the last two years has there been an auto
9 accident by a police officer?

10 A. Probably one a month.

11 Q. One a month? Okay. So although it shouldn't
12 happen, it's something that does happen periodically?

13 A. Yes.

14 Q. Okay. Has anyone ever been terminated as a
15 result of an auto accident to your knowledge?

16 A. Not yet.

17 Q. Okay. And I would assume then that John Doe
18 HM's termination had nothing to do with the auto accident?

19 A. Nothing.

20 Q. Okay. Aside from the auto accident, are
21 there any other issues of poor judgment that you believe
22 John Doe HM showed?

23 A. Again, you know, not being in the same time
24 frame, I can't recall things, but there was a dust-up that
25 he had with his supervisors somewhere, and I don't recall

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1 exactly what happened. It was basically left between the
2 two sergeants. I don't know exactly what caused it and
3 how it transpired.

4 Q. Okay. And do you know whether or not any
5 discipline was meted out to any individual involved in
6 that dust-up?

7 A. I didn't and I don't think anybody did.

8 Q. Okay. Aside from those, are there any other
9 incidents that you believe showed poor judgment on behalf
10 of John Doe HM?

11 A. If I go back to the evaluation, leaving his
12 sector and leaving the City of Creve Coeur without
13 notarizing -- or I'm sorry -- being authorized by his
14 watch commander is not a good thing. That shows not real
15 good judgment. Calling out -- getting out of his police
16 car without calling out that he's out of the car is a big
17 violation of my policy.

18 Q. Okay. Why is that? Is that a safety issue?

19 A. Safety issue. We want to know whether -- if
20 they walk inside some place, you want to know -- if
21 something happens in the business and the business calls
22 and says, Something is going on, you got a cop in here, we
23 have no idea who it is, and he won't get any help either.

24 Q. Okay.

25 A. So we need -- officers on our department are

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1 mandated to call out when they get out of their police car
2 for business checks/walkthroughs, bathroom breaks, meals.
3 Whatever it is, they are mandated to go on the radio and
4 call out what their location is.

5 Q. Okay. Can you tell from the document whether
6 that was a habit or was it something that had --

7 A. Well, if it makes it in here, it's probably
8 something that he does more than just once.

9 Q. And when you say makes into there, you mean
10 into the evaluation?

11 A. Yes. If it makes it into the evaluation, it
12 is not a one -- usually not a one-time occurrence. There
13 are things that occur that are so severe that are one-time
14 occurrence that have to make it into here, but for the
15 most part, things -- the whole idea of the coaching is to
16 make the person aware of what they're not doing correctly
17 or doing correctly, to keep it up, or not keep it up, and
18 if it makes it into here, it means that he hasn't
19 responded to the coaching that he was given.

20 Q. Okay. Now, with regard to that, with regard
21 to his leaving the sector and failing to tell others that
22 he was getting out of his police car, did either of those
23 play any role in his termination?

24 A. No.

25 Q. Is it fair to say that the only reason he was

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1 terminated was because of the event of 12/31?

2 A. That would be my belief.

3 Q. Okay. Okay. Now, I just have a little bit
4 of cleanup. There's some documents that have your name on
5 them, so I would like you to identify them for me and we
6 will run through that very quickly.

7 MS. RANDLES: Would you mark this as exhibit
8 next.

9 [Reporter marked Exhibit 50.]

10 Q. (By Ms. Randles) Now, the first one I am
11 giving you, actually I don't -- it doesn't appear to have
12 your -- your signature on it, but I was wondering two
13 things; first, can you tell me whose signatures those are?
14 I can see Beardslee, but the other two, can you tell me
15 who those signatures are?

16 A. The assistant to the city administrator looks
17 like Jason Christianson.

18 Q. Okay.

19 A. And approved by city administrator is Mark
20 Perkins.

21 Q. Okay. Now, have you seen a form like this
22 before?

23 A. Yes.

24 Q. What is the purpose of this form to your
25 knowledge?

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1 A. This is a personnel action form that is
2 usually completed by the chief of police and sent to the
3 city administrator to document the fact that the person
4 has either been taken off probation, extended probation,
5 pay change, transfer, a whole bunch of different things
6 that can happen to an employee. They're all kind of
7 stated right here what could happen to you, --

8 Q. Okay.

9 A. -- but I've seen them mostly because I have
10 gotten them because of pay increases and promotions.

11 Q. Okay. And these are the kinds of documents
12 then that go into the official personnel file?

13 A. I can't say with a fact, but I'm sure that's
14 where they go.

15 Q. Okay.

16 A. I don't -- I haven't really --

17 Q. Not your bailiwick?

18 A. No. Not my bailiwick. I like that.

19 Q. All right.

20 [Reporter marked Exhibit 51.]

21 Q. (By Ms. Randles) Okay. Would you please
22 turn to the last page of the document that's just been
23 marked as Exhibit 51. Is that your signature at the end
24 of this document?

25 A. Yes.

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1 Q. Okay. Now, do you recognize this document?

2 A. This is the field training document for when
3 a person gets off -- for when an officer is considered to
4 be removed from field training; however, it has been
5 changed since here -- since this time.

6 Q. Okay.

7 A. There's now 31 criteria.

8 Q. Okay. And going again to the last page where
9 it says comments of patrol division commander, is that
10 your writing?

11 A. Yes. It's my printing.

12 Q. Okay. It says, Officer John Doe HM has
13 demonstrated proficiency in all areas?

14 A. Yes.

15 Q. There do not appear to be any major areas of
16 concern at this point?

17 A. Yes.

18 Q. I recommend his release from field training?

19 A. Yes.

20 Q. Okay. So is this the official document then
21 that released him from his field training?

22 A. Yes.

23 Q. Okay. Okay. I will hand you what's been
24 previously marked as Exhibit 14. Can you describe for me
25 what this document is?

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1 A. This is a periodic review that I send to the
2 sergeants. I do a lot of auditing of various functions
3 that police officers are supposed to do, and this has --
4 this is concerning paperwork problems, correction notices,
5 that I send to every -- although this says to -- on the
6 "to" line, those are all the sergeants, Chellis, Kellogg,
7 Lively, McCrary, Romas and Williams at the time, and it's
8 to let them know that these officers need more attention
9 to their various mistakes on paperwork.

10 Q. Okay. And do you put every officer that
11 needs work on their paperwork in the same form, or do you
12 send it by watch or by commander?

13 A. I usually send it to probably one, big,
14 generic email, --

15 Q. Okay.

16 A. -- with -- there might be some exceptions to
17 that, but most of the time, corrections like this are a
18 generic email to the supervisors, all of them.

19 Q. Okay. And how often would you send this kind
20 of email?

21 A. Well, booking -- paperwork mistakes, probably
22 every six months. Warrant applications, probably every
23 two months. Traffic enforcement is every month. Racial
24 profiling is every month. Evidence submittal is maybe
25 every six months. There's just a whole mess of stuff that

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1 I audit.

2 Q. Okay. And you said that, for example,
3 paperwork was every six months. Do you actually calendar
4 that in six months, I am going to review all the paperwork
5 and then send it out, or is that just kind of the way it
6 happens?

7 A. No. The -- in this particular case, the
8 records clerks are the ones who generate this, and they
9 send it to me, so there's like little ticklers all over
10 the place that say this is the time for this, and they
11 send it to me and I take care of it.

12 Q. Okay. So this is something then that is --
13 you routinely do?

14 A. Mm-hm.

15 Q. That every six months, the records clerks
16 will give you information and then you send it out?

17 A. That doesn't mean every six months that I
18 send something out, because there might -- the records
19 clerks thinks there's a problem, I may not think it's the
20 same problem, so there may not be any issues --

21 Q. Okay.

22 A. -- occasionally.

23 Q. Okay. And I assume the same kind of process
24 occurs with the -- the traffic?

25 A. Traffic stops?

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1 Q. Traffic stops?

2 A. I do that monthly, yes.

3 Q. Okay. So this is not the only one of these
4 that you have ever sent out?

5 A. Oh, no.

6 Q. Okay. Okay.

7 MS. RANDLES: Would you mark this as Exhibit
8 52.

9 [Reporter marked Exhibit 52.]

10 Q. (By Ms. Randles) Is the printing on Exhibit
11 52 your handwriting?

12 A. Yes.

13 Q. So you filled out this sick leave report?

14 A. Yes.

15 Q. And was it filled out on behalf of John Doe
16 HM?

17 A. Well, John Doe HM didn't fill it out himself.
18 It might have been at the direction of the chief.

19 Q. Okay. Do you recall whether or not the chief
20 told you to fill it out?

21 A. I don't recall specifically, but I certainly
22 didn't do it on my own volition.

23 Q. Okay. I'm having some difficulty reading the
24 -- it's hours of absence from 7:00 a.m. to 3:00 p.m.,
25 total time absent. Is that 40?

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1 A. Forty hours. That's a week.

2 Q. Okay. Can you describe for me what the
3 purpose of this form is?

4 A. When officers call in sick, this is a
5 standard form that's filled out for -- it's been updated
6 since then, it looks a little bit different, but
7 essentially the information is the same. The officer
8 calls in sick, someone takes the message and puts in the
9 cause of absences, what's the cause, and then when the
10 person is supposed to -- if he's consulted a doctor and
11 whether or not his -- he's expected to return to work, --

12 Q. Okay.

13 A. -- and then normally it goes to division
14 commander, and I sign it and send it to the chief's
15 office.

16 Q. Okay. And it actually says, Message taken
17 by. Is that your --

18 A. Yeah. That's my signature.

19 Q. -- your signature? Okay. And time called
20 in, at 1500 hours on 12/31/05?

21 A. Is that the -- that's the time that I got the
22 call probably at my house.

23 Q. Okay.

24 A. Somewhere in that area.

25 Q. All right. Then the message taken by, this

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1 was a message -- it wasn't taken from John Doe HM,
2 correct?

3 A. No.

4 Q. So this 12/31/05, 1500 hours, is that
5 referring to your receipt of the telephone call from
6 Sergeant Chellis?

7 A. I believe so.

8 Q. Okay.

9 A. But it's probably not exact what time I got
10 the phone call. This was done to -- for the most part to
11 give the reason why he wasn't at work. There has to be a
12 reason why somebody isn't working, there has to be some
13 paperwork that follows, and this was done to show that he
14 wasn't going to be at work.

15 Q. Okay. All right.

16 [Reporter marked Exhibit 53.]

17 Q. (By Ms. Randles) Okay. I have just handed
18 you what's been marked as document -- as Deposition
19 Exhibit No. 53, and recommendation of division commander,
20 is that your signature?

21 A. Yes.

22 Q. Can -- do you recognize this form?

23 A. It's a request for permission to engage in
24 outside employment.

25 Q. Okay. And do you recall having approved that

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1 Mr. John Doe HM be allowed to engage in outside
2 employment?

3 A. I don't specifically recall it. No.

4 Q. Okay. What is the purpose of this form?

5 A. It is to make sure that -- if the officer
6 wants to work outside the police department, that his
7 other job doesn't conflict with his police officer's job,
8 his police job. There's various things that he can and
9 cannot do so that the police department doesn't become the
10 second job, so to speak. So being a police officer is his
11 first job, and there are certain things in our SOP that
12 you cannot work as, like a bartender or things like that.
13 So it's to make sure that whatever job he's putting -- his
14 secondary job he's putting in for, that it conforms with
15 our guidelines and SOP, so people check it to make sure
16 that it's -- and that it doesn't -- and he doesn't work so
17 many hours at it that he be tired for his police job and
18 things of that nature.

19 Q. Okay. And in this particular situation, it
20 appears that he was going to be engaging in some IT work?

21 A. It says here sales networking, wiring of
22 computers and networks.

23 Q. Okay. So that there was no prohibition
24 against him engaging in IT work along with his job as
25 police officer?

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1 A. No. It apparently mandate -- conformed to
2 what our SOP was at the time.

3 Q. Okay. And this -- in order for this kind of
4 request to be approved, does it require all three
5 signatures?

6 A. Yes.

7 Q. Okay. So you couldn't approve alone the
8 permission to engage in outside employment?

9 A. Well, at any point, it can be for the most
10 part denied by either the chief of police or the city
11 administrator.

12 Q. Okay.

13 A. And at that time, Captain Kayser was the
14 acting chief of police.

15 Q. Okay. Now, you know, most of these we're
16 going to identify through the 30(b), so my inclination is
17 not to have Captain Hodak further identify documents.

18 MS. OWENS: I don't want to -- I hate for you
19 to do it twice, so --

20 MS. RANDLES: Yeah. That's kind of my -- my
21 thinking, because I have got a bunch of documents to
22 identify, but it's my inclination -- we have been on the
23 record for a long time. I know that Lorena has some
24 questions to follow-up with, so -- and -- well, are you
25 willing to stipulate to the authenticity of the documents

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1 that you have produced?

2 MS. OWENS: Yeah. I mean, I think you will
3 go through them with the 30(b) and/or when you take Mr.
4 Beardslee's deposition, because I think you and I
5 discussed he's better apt to answer some of those than the
6 30(b) person, but, yeah, to the extent that we provided it
7 to you under Rule 26 disclosure, then it was part of the
8 personnel file.

9 MS. RANDLES: Okay. All right. Then, in
10 that case, I'll turn the questioning over to Lorena at
11 this time.

12 MS. MERKLIN VON KAENEL: Chief Beardslee, can
13 you hear me if I speak like this?

14 DEFENDANT BEARDSLEE: I've been able to hear
15 -- excuse me for the way I say this, but I've been able to
16 hear clearly the female voices this afternoon.

17 MS. RANDLES: Okay. Good.

18 MS. MERKLIN VON KAENEL: I'll take that as a
19 yes.

20 MS. OWENS: I was just going to say, before
21 you start, real quick, because Chief Eidman just reminded
22 me of something, we sent these out before the protective
23 order. I probably need to reissue them to you with a
24 confidentiality stamp, or if you can agree, because a lot
25 of them, they obviously contain information about your

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1 client, --

2 MS. RANDLES: Right.

3 MS. OWENS: -- and to some extent, they may
4 contain information in the personnel files about other
5 people as well, so any of the documents that go along with
6 these depositions would all be under the confidential --
7 under the protective order as far as disclosure to outside
8 people.

9 MS. RANDLES: Okay.

10 MS. OWENS: And we can talk about that more
11 specifically off the record, and we'll probably need to
12 reissue them to you with a stamp on them.

13 MS. RANDLES: All right. And actually, if
14 you need to go through them, you just give me a list of
15 the numbers that you consider confidential, I won't
16 require you to reissue them.

17 MS. OWENS: Okay. That sounds perfect.

18 Sorry, Lorena.

19 MS. MERKLIN VON KAENEL: No problem.

20 CROSS-EXAMINATION

21 QUESTIONS BY MS. MERKLIN VON KAENEL:

22 Q. Officer -- Lieutenant Hodak; is that correct?

23 A. Captain.

24 Q. Captain? Oh, I can never remember the -- the
25 names. Captain Hodak, my name is Lorena Merklin von

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1 Kaenel, and I represent St. Louis County Police Officers
2 Thomeczek and Lasater and Chief Lee of the St. Louis
3 County Police Department, and if you -- same rules.

4 If you don't understand something I'm saying, I am
5 not clear enough, or you can't hear what I'm saying, just
6 ask me to repeat the question and I will be happy to do
7 it, and I don't have that many questions.

8 I just want to confirm that -- and I am going to go
9 back to some of the questions that Miss Randles has asked
10 you. You stated that you created Exhibit No. 23, which is
11 the investigative report for the incident that occurred on
12 12/31 of 2005; is that correct?

13 A. Yes.

14 Q. Okay. And that's everything -- that contains
15 all your notes with respect to the people you spoke with,
16 and that involves everything you did with respect to this
17 incident; is that correct?

18 A. Yes.

19 Q. Okay. And then that report was handed to
20 Chief Beardslee; is that correct?

21 A. That -- that -- this report (Indicating) was
22 done at the direction of Chief Beardslee.

23 Q. Okay. And then you would have given it to
24 Chief Beardslee?

25 A. Yes.

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1 Q. And would you have given it to anybody else
2 for further follow-up?

3 A. No.

4 Q. Okay. And with respect -- and then any
5 investigation following that, would it have been at the
6 direction of Chief Beardslee?

7 A. Any further investigation of this would have
8 been at the direction of the chief, yes.

9 Q. And you didn't -- and you didn't order any
10 further investigation?

11 A. The only thing I did was call Sergeant
12 Lasater for a copy of the police report.

13 Q. Okay. And -- and just remind me. It does
14 refer to a police report in -- in your investigative
15 report there in Exhibit No. 23. Would that have been the
16 police report you received from Police Officer Lasater of
17 St. Louis County?

18 A. I'm looking at a copy of his report. Right.

19 Q. You know what, why don't we do this. I'm
20 going to make this a little bit easier for you. I am
21 going to hand you what I am marking as Exhibit No. 54 and
22 I will ask you to look at it.

23 [Exhibit 54 was marked.]

24 Q. (By Ms. Merklin von Kaenel) I am going to
25 hand you No. 54, and will you look at that for me, and is

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1 that the -- is that -- does that look like the police
2 report you received from Sergeant Lasater?

3 A. It's got the same number, it's in a little
4 bit different format because CARA has changed its format,
5 but it is the report that I remember getting from Sergeant
6 Lasater, from -- from one of the officers in St. Louis
7 County who sent it.

8 Q. And if you wouldn't mind looking at it, it
9 consists of four pages, and there's some substantial
10 narrative on page three and part of page four. If you
11 wouldn't mind refreshing your recollection about the
12 report now, I would appreciate it. Would you mind just
13 looking it over for me? I'm sorry.

14 A. Okay.

15 Q. You stated that you had had a conversation
16 with Sergeant or Police Officer Lasater. Is this report
17 consistent with any kind of information you guys talked
18 about? Was there anything that you guys talked about
19 other than what's in this police report or different?

20 A. Nothing --

21 Q. I think you said you don't remember exactly
22 what you two spoke about; is that right?

23 A. I don't recall speaking with Sergeant Lasater
24 about anything else.

25 Q. Okay. But is what is in this police report

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1 consistent with what you may have spoken to him, maybe
2 some of the things you may have learned?

3 MS. RANDLES: Objection.

4 Q. (By Ms. Merklin von Kaenel) Well, go ahead.

5 Subject to her objection, you can still answer.

6 A. Can you say that again?

7 Q. Sure. Is -- is the report consistent with
8 what you learned about from Police Officer Lasater about
9 the event of 12/31 of '05?

10 A. Yes.

11 Q. Okay. Did you have any other -- other than
12 the conversation that you had with Police Officer Lasater
13 with respect to the event 12/31 of '05 and other than the
14 conversation you had with Police Officer Lasater to get
15 the police report, are there any other conversations you
16 had with any St. Louis County Police Department employees?

17 A. No.

18 Q. Okay. And I'm going to ask you, and I think
19 you have it in front of you, it's -- well, let me get it
20 -- Exhibit No. 29. Miss Randles I think identified it as
21 an EEOC position statement.

22 A. I don't have that in front of me.

23 Q. You don't have it in front of you?

24 A. No.

25 Q. Let me get it for you then.

1 A. I've got a copy now.

2 MS. MERKLIN VON KAENEL: Oh, thanks, Rebecca.

3 Q. (By Ms. Merklin von Kaenel) And then I am
4 going to turn your attention to page two, and I am going
5 to ask you to look at the very last paragraph that has
6 three sentences and continues to the second page -- I'm
7 sorry, that would be the third page. So it starts with,
8 Upon completion of the investigation, it was determined
9 that --

10 A. Okay. Do you want me to read that out loud?

11 Q. No. You can just read it to yourself.

12 A. Okay.

13 Q. And while the document speaks for itself, I
14 am going to attempt to summarize it. It states that Mr.
15 John Doe HM was engaged in conduct unbecoming of a police
16 officer, in violation of SOP 121.02 and 262.02C2, carrying
17 an unauthorized secondary weapon. Is that how you read
18 it?

19 A. Yes.

20 Q. And is that to your understanding some --
21 some of the bases why Mr. John Doe HM was terminated?

22 A. Yes.

23 Q. And SOP 121.02 and SOP 262.02C2, those are
24 Creve Coeur standards?

25 A. Standard op -- yes. SOP --

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1 Q. And those are the terms of your employment as
2 as a police officer; is that correct?

3 A. The SOP?

4 Q. Yes.

5 A. Yes.

6 Q. Particularly 121.02 and 262.02C2, those are
7 two terms -- you must follow these SOPs as a part of your
8 employment with Creve Coeur; is that right?

9 A. Yes.

10 Q. Okay. And then it continues, and I am going
11 to dare to summarize it again, that he was in violation of
12 SOP, and this is very much towards the end, SOP 121.04,
13 unable to physically or mentally perform duties. Was that
14 also your understanding, that that was one of the bases
15 for which he was fired --

16 A. Yes.

17 Q. -- or terminated?

18 A. Yes. It is.

19 Q. Okay. So it's those three bases -- at least
20 those three bases why he was terminated?

21 A. As far as I know.

22 Q. As far as you know. That's all I'm asking,
23 sir. And as far as you know, was there anything that --
24 just as far as you know -- that took -- that converted Mr.
25 John Doe HM's employment from probationary to permanent,

1 any act by the chief that made him a permanent employee of
2 Creve Coeur?

3 A. No.

4 Q. Was there anything, as far as you know, and
5 we spoke a little bit about the two guns, that gave Mr.
6 John Doe HM the permission to carry the Walther as an off
7 duty or secondary weapon?

8 A. No.

9 Q. And the ability to carry that Walther that he
10 was qualified for, that really wouldn't have come out
11 until mid-January, that list?

12 A. Sometime after January 15th, usually before
13 January --

14 Q. So in 2006, that was the practice? It would
15 come out sometime around the middle of January?

16 A. Yes.

17 Q. And so officers wouldn't know really until
18 mid-January for what they would have gotten official
19 approval for --

20 A. Correct.

21 Q. -- to carry?

22 A. Correct.

23 Q. Okay. Thank you. And I am going to ask you,
24 and if you don't have it, I'll give you my copy to look
25 at, Exhibit No. 49, and I believe that was a memo that

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1 Officer DeGhelder, Steve DeGhelder, addresses to you, and
2 I have another copy if you don't have it.

3 A. I have it.

4 Q. Okay. All right. Is this a memo that you
5 remember receiving?

6 A. Until I reviewed some things, no.

7 Q. Okay. So you don't know when you would have
8 received it?

9 A. No. I do not.

10 Q. Okay. And -- well, I guess I'm going to ask
11 you to speculate, but that's the beauty of depositions
12 sometimes, you can do that. If you had known this
13 information, Crystal -- and I am going to read just from
14 the memo -- Crystal said John Doe HM had assaulted her and
15 threatened her at her residence. Crystal said John Doe HM
16 threatened to commit suicide, and when she went to his
17 residence, he had a gun, a towel and a suicide note.
18 Would that have given you concern with respect to Mr. John
19 Doe HM?

20 MS. RANDLES: Objection. Calls for
21 speculation.

22 Q. (By Ms. Merklin von Kaenel) You may answer
23 the question.

24 A. Absolutely.

25 Q. And would that have been -- caused an

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1 investigation of Mr. John Doe HM?

2 A. Yes.

3 Q. And could that have also been the basis for
4 termination after investigation?

5 A. If it was sustained, yes.

6 Q. After investigation?

7 A. Yes.

8 Q. Okay. And I am going to ask you, and I know
9 I may be almost asking you to repeat what you said to me,
10 but I have to ask the question a different way, do you
11 remember using this memorandum or the information in this
12 memorandum of what Steve DeGhelder told you with respect
13 to this as part of your investigation of Mr. John Doe HM?

14 A. No. I did not use that.

15 Q. Okay. You stated that you attended the
16 terminating -- termination meeting that included Chief
17 Beardslee and Mr. John Doe HM; is that correct?

18 A. Yes.

19 Q. And at that meeting, did Mr. John Doe HM
20 dispute Chief Beardslee's charges against him -- reasons
21 for termination? I'm sorry.

22 A. I don't recall John Doe HM saying anything
23 substantial with regards to what happened.

24 Q. Okay. And do you remember whether -- only to
25 your knowledge -- whether he subsequently wrote a letter,

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1 memorandum or other document where he explained his side
2 of the story to Beardslee and asked for some kind of
3 reconsideration of his employment?

4 A. I know nothing about that at all.

5 Q. Okay. And there's some discussion about a
6 post being issued, and that is Exhibit No. 30, a notice to
7 post. Do you have it?

8 A. No. 24?

9 Q. No. 30.

10 MS. OWENS: I have a copy of it.

11 A. No. 30. I have it, but --

12 Q. (By Ms. Merklin von Kaenel) Were you
13 involved in that?

14 A. No. That's -- the chief of police does that.

15 Q. And is it your understanding that only the
16 employing police department can issue posts?

17 A. Memo -- memos?

18 Q. Yes.

19 A. The chief of police of the -- yeah. The
20 chief of police is the only one that sends that to post.

21 Q. All right. And that's the chief of police
22 that employs the police officer; is that correct?

23 A. Yes. Yes.

24 Q. Okay. And then with respect to the safety
25 alert which was the employee's safety alert Exhibit No.

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1 24, do you remember that?

2 A. Yes.

3 Q. Okay. I just want to make sure you have it
4 in front of you.

5 A. Yeah. I have it.

6 Q. That was issued as well by Chief Beardslee;
7 is that correct?

8 A. Yes. It was.

9 Q. And that was internally distributed only to
10 your knowledge?

11 A. On the bulletin boards only as far as I know.

12 Q. Within the Creve Coeur Police Department?

13 A. Yes. Within the Creve Coeur Police
14 Department.

15 Q. And I am going to -- now, I am going to go
16 back to something you said earlier in your deposition. I
17 had some questions, and I am just -- it's going to be a
18 little erratic, but I'm going to go from the beginning and
19 try to track what Miss Randles was asking you, and I
20 thought of some questions as we were going along.

21 The two police officers that were sent to mental
22 health professionals during their employment with Creve
23 Coeur, you stated there was one that was employed and one
24 that's currently still employed. One eventually was --
25 was terminated, and the -- there was one sergeant that was

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1 sent for a mental exam because of a shooting?

2 A. Yeah, critical stress incident management.

3 Q. Were any one of those probationary employees?

4 A. No.

5 Q. All right. And you have -- you have now
6 looked at the allegations -- I'm sorry. You have read or
7 looked at the police report, which is Exhibit No. 54, and
8 I am going to ask you to look --

9 MS. MERKLIN VON KAENEL: Do you have 47,
10 Stacie?

11 MS. OWENS: Here's 47.

12 Q. (By Ms. Merklin von Kaenel) That was a
13 deposition exhibit from Mr. John Doe HM's deposition. I
14 am going to ask you a little bit -- I am going to ask you
15 for your opinion. You have been a police officer for 30
16 years; is that correct?

17 A. Yes.

18 Q. And you did -- you've been through the
19 academy and through in-service training for 30 years?

20 A. Yes.

21 Q. And you were a road officer for, what, almost
22 nine years?

23 A. Yes.

24 Q. And you have had -- tell me -- you have
25 pulled over many people in your career with Creve Coeur?

1 A. Yes.

2 Q. Hundreds, maybe thousands; is that fair?

3 A. Fair.

4 Q. Okay. And No. 47, I will pose to you that
5 this is a drawing prepared by Mr. John Doe HM, and he
6 prepared this at a deposition that occurred in the line of
7 a certain amount of questioning, and the triangle that you
8 see at the -- the big triangle that you see at the bottom
9 with a W in the left bottom corner is a parking lot off
10 Highway 21. Are you familiar with -- I mean, it has a
11 Wendy's or used to have a Wendy's. Are you familiar with
12 this area?

13 A. Somewhat.

14 Q. Somewhat. And it's south of the hospital,
15 the St. Anthony's, and it's -- it would be located -- in
16 relation to St. Anthony's, which has the big X all the way
17 to the right, it's located to the left of the X.

18 A. Okay.

19 Q. And south of 270, south of the hospital, and
20 where there says FB with a circle, it's a bank on a
21 corner. Sound familiar, kind of, sort of?

22 A. Yeah. I'm familiar with the area, but I
23 can't say that I'm 100 percent familiar with that parking
24 lot.

25 Q. That's okay. I appreciate your candor. In

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1 pulling -- tell me something. Why do police officers,
2 when they pull somebody over, why do they want to be
3 behind the person that they pull over? Is that the
4 optimal position for a police officer to be?

5 A. Yes.

6 Q. And why is that?

7 A. It gives you the tactical advantage, so that
8 if somebody does try something, that you -- they actually
9 have to turn around and come after you. You can watch
10 them all the time and still be faced foward; otherwise,
11 you're -- if you pull in front of the officer, you're --
12 or the officer pulls in front of the car, he actually has
13 to come back to the violator, and he can't -- if he does
14 go back to his car to do whatever he's going to do in his
15 car, obviously you can't keep an eye on the guy behind
16 you.

17 It also offers you cover. When you're behind
18 someone, you can get to -- you can run back to your car
19 faster and you -- the officer has to -- or the perpetrator
20 would have to come after you, so it's a more tactically
21 sound position.

22 Q. And is that what a police officer, including
23 Mr. John Doe HM, would have been trained in the academy,
24 these tactical positions in pulling over people?

25 A. Yes.

1 Q. And would this have been further part of his
2 training and any police officer's training when they're
3 undergoing their field training with the Creve Coeur
4 Police Department?

5 A. Yes.

6 Q. And this is something that is taught all
7 police officers?

8 A. Yes.

9 Q. Creve Coeur, of course, that's all you can
10 speak to, of course?

11 A. That's the only way that we would pull a car
12 over. We would never pull a car over from the front.
13 It's almost impossible.

14 Q. Okay. So a police officer that's been
15 trained this way knows that you must -- your optimal
16 position is to be behind the person you're pulling over?

17 A. Yes.

18 Q. And so the -- would the converse be also
19 true, that if you were a police officer being pulled over,
20 you allow the pulling over police officer to stay behind
21 you? Is that the -- the pulling -- if you're -- let's say
22 as a police officer you're being pulled over. You're now
23 in a flip -- flip the position. You're being pulled over.
24 You're a police officer being pulled over. You know to
25 allow the police officer that's pulling you over to stay

1 behind you?

2 A. Well, you know they're going to be behind
3 you. I don't know of any circumstance where they would
4 ever be in front of you.

5 Q. And as a police officer, would you -- and we
6 talked about -- we talked about this as part of reviewing
7 the St. Louis County Police report, and you stated that
8 turning his -- in this situation specifically with respect
9 to Mr. John Doe HM, in turning his vehicle around, he put
10 himself in -- I want to get your words -- put himself
11 facing the officer in a tactically -- well, I'm going to
12 ask you, is it a tactically aggressive position?

13 A. I would consider it a tactically aggressive
14 position. I have never stopped a car in my career that
15 ever did that, and if a car had done that to me, I would
16 be more than likely to keep cover and probably do exactly
17 what that officer did there, is draw my gun, what the heck
18 is this guy doing.

19 Q. And tell me, why do you feel unsafe about
20 that?

21 A. Because now he's looking at you, he's
22 watching you, and he's got -- for the most part, he's got
23 the advantage, because you cannot approach that car -- you
24 cannot approach him without him having the advantage of
25 you.

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1 Q. And as a police officer, is it particularly
2 worrisome that the guy in the car facing you is a police
3 officer armed with two guns?

4 A. Absolutely.

5 Q. And why is that, sir?

6 A. Well, based on the fact that that officer
7 knows -- you know, that officer -- the person that's being
8 pulled over, if he's a police officer --

9 Q. Let's say it's -- John Doe HM is being pulled
10 over and he has two guns and he puts his car in that
11 position.

12 A. Then I would be -- that -- I would be worried
13 if I was the officer.

14 Q. And why is that, sir?

15 A. Because that police officer -- the person
16 that's getting pulled over has the tactical advantage.
17 That man, I know, is already armed, and I already have
18 previous information that there's a problem, so I'm --
19 yeah, I'd be worried. I'd be extremely careful.

20 Q. Is part of your calculus also that that
21 officer has been trained to use weapons?

22 A. Oh, absolutely. Yes.

23 Q. All right. And -- and just to repeat, not to
24 make a -- not to beat a dead horse, but you stated that in
25 -- when a -- knowing that a police officer had turned his

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1 vehicle, knowing that he was armed, you would also -- it
2 might also put you in a frame of mind where you might draw
3 your gun for your safety; is that correct?

4 A. Yes. If I knew the other person was armed,
5 absolutely.

6 Q. All right. And that's a reasonable -- in
7 your estimation, that's a reasonable thing to do in that
8 situation?

9 A. Yes.

10 Q. And is it part of the way you're tactically
11 trained?

12 A. To protect yourself, absolutely.

13 Q. Okay. And if you look at drawing No. 47, I
14 am going to -- I am going to -- I am going to just explain
15 to you a couple of things about the drawing. If you see a
16 line coming into what looks like this rectangle, that --
17 that line shows the path Mr. John Doe HM's vehicle took,
18 and where you see a rectangle with a triangle facing
19 forward, it says HM, and that's where Mr. John Doe HM's
20 vehicle came to a final rest. All right?

21 Is -- for -- for a vehicle to come into this
22 parking lot, make this U-turn and face forward, is that
23 what you would consider an aggressive stance?

24 MS. RANDLES: Objection. Mischaracterizes
25 Mr. John Doe HM's testimony. Go ahead.

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1 Q. (By Ms. Merklin von Kaenel) Well, having a
2 -- if you just see the path of the vehicle and where the
3 HM vehicle stays, I am going to posit the beginning of the
4 line is the entrance to this -- this place, and the lines
5 drawn are parking spaces or approximately parking spaces.
6 Is that an aggressive vehicle stance/position?

7 A. It's not normal, --

8 Q. Okay.

9 A. -- and it would put me on alert.

10 Q. And if you were the police officer following
11 this car, would you have been more comfortable and would
12 you have felt more safer if that vehicle had parked in one
13 of the spots, if he just pulled straight in and forward so
14 you would have had the back of the vehicle facing you?

15 A. If he had pulled into a parking spot?

16 Q. If he pulled into one of the parking spaces
17 in a more forward direction, so coming into this lot, he
18 would have gone straight and into one of these lines that
19 are towards the bottom of the rectangle, the bottom right
20 of the rectangle, if he had pulled into one of those
21 spots, --

22 A. Back here (Indicating).

23 Q. -- would that have put --

24 A. That would seem to be more natural than
25 making a U-turn, facing back out.

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1 Q. And that would have had the rear of his
2 vehicle --

3 A. Yeah.

4 Q. -- in front of your vehicle, one of those
5 safe tactical --

6 A. You would have been behind him. In this
7 particular case, this is almost as bad a tactical position
8 as facing straight on, because the officer has to get out
9 of the car with the subject he's stopping right directly
10 in front of him, so this is almost in bad a tactical
11 position as coming face-to-face.

12 Q. Okay. Because this is another unsafe
13 position for the police officer stopping him?

14 A. Absolutely.

15 Q. And then --

16 A. That's a straight-on shot to the police
17 officer getting out of his car.

18 Q. And do you mean a straight-on shot meaning if
19 he had a gun in his hand?

20 A. If the suspect had stopped right there, he
21 could put his hands right out the window and -- and the
22 police officer is getting out of the door, right in his
23 line of fire.

24 Q. Okay. And tell me, if you're a police
25 officer and you are pulling over someone that has just

1 made this move in the parking lot and positioned his
2 vehicle like this and he doesn't -- what's the first thing
3 you do when you pull somebody over? Do you ask them to
4 show their hands?

5 A. Most -- well, no, not really, but you can
6 show them to show -- you can ask them to see their hands,
7 but I would say normally people are pretty cognizant of --
8 when they get pulled over, most people aren't --
9 especially police officers know that they should show
10 their hands, not put them out the window, but maybe on the
11 steering wheel.

12 Q. Okay. Or the dashboard or something like
13 that?

14 A. Sure.

15 Q. And are -- are police officers, when they're
16 trained to be police officers, they're told that when you
17 ask someone you have pulled over to show their hands, they
18 must obey?

19 A. They should.

20 Q. They should obey. And why? Because,
21 otherwise, if you don't obey, it could be a violation of
22 following a police order; is that correct?

23 A. I'm not sure if we've ever done that.

24 Q. I understand that, but could it be a
25 violation of that?

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1 A. Of taking your hands out of your pockets? I
2 believe it gives you the authority to go a little bit
3 further, but I'm not sure you can charge somebody with not
4 taking their hands out of their pocket --

5 Q. What about -- and I apologize for stepping
6 over. What if someone repeatedly doesn't obey a police
7 officer's commands to take --

8 A. Sure. That would be failure --

9 Q. Failure to obey?

10 A. -- failure to obey --

11 Q. Do you have a city ordinance that says -- a
12 failure to obey ordinance?

13 A. I believe we do.

14 Q. Okay. Could -- and I am skipping because I'm
15 going along these questions, and I apologize. Could --
16 with respect to the weapon, the Walther, with respect to
17 the weapon that was qualified but had not appeared on a
18 memo for Mr. John Doe HM's ability to carry, could Mr.
19 John Doe HM have inquired independently before carrying a
20 Walther whether he had gotten permission from the chief or
21 not?

22 A. Yes.

23 Q. So what would he do? Just he could ask you
24 or he could ask the chief?

25 A. He could ask me or he could ask the chief.

1 Q. And he could do that before he puts the
2 weapon in his car; is that right?

3 A. Yes.

4 Q. Okay. You -- again, I'm sorry for jumping.
5 You stated that sometimes you give out -- I mean, this is
6 in the context of talking about point-to-point bulletins
7 or internal safety alerts or your contacts between St.
8 John's and Monsanto, so you were talking about what --
9 what Creve Coeur Police Department does, and you stated
10 something to the effect -- if I am misquoting you, please
11 correct me, sir. You stated something to the effect that
12 ex-employees can sometimes be a potential danger to their
13 employer, so alerts or cautions are given to the employer;
14 is that right?

15 A. Occasionally, yes.

16 Q. Okay. And why is that, sir?

17 A. Because the workplace violence that's been
18 kind of an epidemic I guess in the last 10, 15 years, that
19 people have come -- I mean, it's pretty common knowledge
20 that disgruntled employees have come back and shot up
21 their former places of employment, so in this day and age,
22 you really can't take a lot of chances with that if you
23 feel a person is disgruntled.

24 Q. And a term of -- as a Creve Coeur police
25 officer, a term of your employment is every standard

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1 operating procedure or what you -- what is the Creve Coeur
2 Police Department rules; is that correct?

3 A. Standard operating procedure?

4 Q. You do call it that?

5 A. Mm-hm.

6 Q. Okay. And with respect to the standard
7 operating procedure, that's the term of your employment,
8 you have to follow those to keep your employment; is that
9 right?

10 A. Yes.

11 Q. And -- and not to beat a dead horse, one of
12 those -- one of the terms of your employment is Creve
13 Coeur gets to decide which guns you carry off duty?

14 A. We -- the officer has the ability to present
15 whatever weapon he has within this guideline, so the
16 guideline is from .22 caliber to I believe nine
17 millimeter, it may go up to .40, but within this
18 guideline, he can have any gun that he wants, model
19 weapon, and then present it for inspection and then
20 qualification.

21 Q. And -- and -- but it's up to St. Louis --
22 it's up to Creve Coeur to decide what he gets to carry as
23 secondary or off duty?

24 A. We get to decide it -- we -- we -- I'm a
25 little confused with the question.

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1 Q. I'm sorry. I'm sorry. It's Creve Coeur's
2 decision what -- it's the permission -- you have to get
3 permission from Creve Coeur --

4 A. Yes.

5 Q. -- in term of your employment what you can
6 carry --

7 A. Yes.

8 Q. -- off duty?

9 A. Yes.

10 Q. Okay. If you -- if -- as a Creve Coeur
11 police officer, if you're on psychiatric drugs, do you
12 have to disclose that to your employer?

13 A. I don't really know. I don't know.

14 Q. Would someone else know that?

15 A. Probably the chief.

16 Q. Okay.

17 A. And the human -- person in charge of human
18 resources.

19 Q. Fair enough. And who -- and tell me who that
20 was -- is -- was in 2005?

21 A. I think it's Jason Christianson, but he
22 usually handles most of the human resources situations.

23 Q. Okay. Nothing further. Thanks.

24 REDIRECT EXAMINATION

25 QUESTIONS BY MS. RANDLES:

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1 Q. Okay. I have a few follow-ups to that.

2 Okay. Looking at Exhibit 47 -- okay. Looking at Exhibit
3 47, which is the drawing of the parking lot, is it the
4 fact that the cars are in a T-bone position that makes you
5 say the position is an aggressive stance?

6 A. It's not the typical way a person is pulled
7 over, and the fact that the officer -- the -- the vehicle
8 is -- the driver's side is pointing right at the driver's
9 side of the officer's car, that is a tactically bad
10 position --

11 Q. Okay.

12 A. -- for any police officer.

13 Q. Sure. Now, it's the police officer's duty to
14 maintain safety in stops, correct?

15 A. There's nobody else there.

16 Q. Okay. And so the police officer is the one
17 who is supposed to follow behind a car and pull in behind
18 him, correct?

19 A. He -- yes. The officer pulls in behind the
20 suspect.

21 Q. Okay. And in this situation, there is one
22 access point to -- or one egress/ingress to the parking
23 lot, and it is the one that they came in. You see -- so
24 when the turn was made, it was pointing to an area where
25 there was no way to get back out on the highway. Do you

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1 see that from this drawing?

2 A. Well, I understand what you're saying now,
3 but you can't really tell that that's an egress or ingress
4 to begin with, so --

5 Q. Okay. In this situation --

6 A. Because the line carries all the way across,
7 so I didn't know you couldn't get out that way either.

8 Q. Okay. Sure. And you said you weren't
9 familiar with this particular parking lot, --

10 A. No.

11 Q. -- correct? Okay. Now, if Officer Thomeczek
12 comes in behind John Doe HM, is it Officer Thomeczek's
13 duty to follow behind Mr. John Doe HM as opposed to try to
14 cut him off?

15 A. He's not supposed to cut off Mr. John Doe HM.

16 Q. Okay. So he's supposed to follow behind Mr.
17 John Doe HM, correct?

18 A. Well, you can only do what the -- what the
19 suspect vehicle -- you can only follow what the suspect
20 vehicle does. If the suspect vehicle does something
21 unusual, then you have to adapt to what -- the unusual
22 situation that he did.

23 Q. Sure. Absolutely. And in this situation, --

24 A. Right.

25 Q. -- you -- you're not familiar with Mr. John

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1 Doe HM's side of the story as to how the -- the situation
2 occurred that he ended up in this parking lot, are you?

3 A. No.

4 Q. And you have never talked to him about that?

5 A. No.

6 Q. And you have never talked to anyone besides
7 Sergeant Lasater concerning that, correct?

8 A. Correct.

9 Q. Okay. As a matter of fact, Sergeant Lasater
10 wasn't the one that made the stop, was he?

11 A. No.

12 Q. And you have never spoken with Officer
13 Thomeczek about the manner in which the stop occurred?

14 A. No.

15 Q. Okay. Now, if you would assume the plaintiff
16 was on the -- Mr. John Doe HM was on the phone to his wife
17 at the time that he's driving down 21 -- Highway 21, sees
18 Officer Thomeczek, sees Officer Thomeczek see him, and
19 asked his wife if she called the police, assume those
20 facts, okay, and she says, Yes, I called the police, so he
21 immediately makes a left turn into the parking lot and a
22 left turn toward the -- to park the car, before any sirens
23 or lights come on, would you consider that in that
24 situation an aggressive move to make a left turn into the
25 parking lot and then to continue that left turn toward a

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1 parking space before any lights or sirens comes on?

2 A. I'm not sure I would classify that as an
3 aggressive move. I consider that an unusual move.
4 Officer John Doe HM could have pulled in anywhere in here
5 and parked anywhere in here facing the opposite direction.
6 Why is he making a U-turn? He could park anywhere in
7 here.

8 Q. Okay.

9 A. Now, he could have made a left-hand turn into
10 the parking lot and stopped immediately.

11 Q. Yeah. Assuming, of course, that there were
12 no cars in any of those spaces, correct?

13 A. Well, there's no cars drew -- drawn in there,
14 so I don't know.

15 Q. Okay. That's exactly the issue. You don't
16 exactly know, because you weren't there, how this stop
17 occurred, do you?

18 A. No.

19 Q. Okay. Now --

20 A. Other than what I gleaned from the police
21 report.

22 Q. Correct. Now, a police officer who had made
23 a bad judgment in coming into the parking lot and instead
24 of following the vehicle attempted to cut him off, would
25 that be considered bad judgment on the part of a police

1 officer?

2 A. To use his patrol car to cut him off?

3 Q. Yes.

4 A. I would not have recommended it, no.

5 Q. Okay. In fact, if an officer did that, could
6 they be the subject of reprimand?

7 MS. MERKLIN VON KAENEL: And I am going to
8 just clarify, according to Creve Coeur rules.

9 A. According to Creve Coeur rules, yes.

10 Q. (By Ms. Randles) Okay. And the rules that
11 you have established in Creve Coeur, are those consistent
12 with the rules that are established in training academy
13 concerning how to make appropriate stops?

14 A. Pretty much so.

15 Q. Okay. And the training academy is the
16 St. Louis Training Academy, correct?

17 A. St. Louis County Municipal Police Academy,
18 yes.

19 Q. Okay. So there really wouldn't be any reason
20 to assume that the method for making a stop would differ
21 greatly from St. Louis County to Creve Coeur; isn't that
22 accurate?

23 A. Yes.

24 Q. Okay. Okay. Now, you indicated that -- that
25 Creve Coeur can tell an officer what gun to carry off

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1 duty, correct, and we had spoken about that some earlier
2 today. Now, is having a weapon in your truck, any kind of
3 weapon, considered carrying under the SOP of Creve Coeur?

4 A. I would have to research that. I'm not real
5 sure.

6 Q. Okay. Are officers allowed to take hunting
7 rifles in their vehicles to go hunting?

8 A. Yes.

9 Q. Are they allowed to take -- I know that
10 sometimes when -- I grew up on a farm. Sometimes hunters
11 will take a handgun to plug a downed animal. Would it be
12 inappropriate for them to have a handgun in the car for
13 purposes of hunting?

14 A. No.

15 Q. And would those handguns -- would that
16 handgun have to be approved in some manner by Creve Coeur
17 for the officer to have it in his vehicle?

18 A. I don't believe so.

19 Q. Okay. And would a hunting rifle have to be
20 approved by Creve Coeur in some manner for an officer to
21 have it in his vehicle?

22 A. No.

23 Q. Then is it safe to say that for leisure
24 activity, there may be a cause that an officer could have
25 a gun that is not an authorized weapon in his vehicle

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1 without violating any SOP?

2 A. I believe that any citizen of the state can
3 carry a gun in their car --

4 Q. Okay.

5 A. -- without the authorization of the state, so
6 a police officer could probably have a gun in his car
7 also.

8 Q. Okay. Thank you.

9 MS. RANDLES: I have nothing further.

10 CROSS-EXAMINATION

11 QUESTIONS BY MS. OWENS:

12 Q. I have just one follow-up to Miss Randles'
13 question. Miss Randles asked you with regard to a handgun
14 or a weapon that somebody was carrying in their car. What
15 if the off duty officer was carrying a gun on his person,
16 in other words, in his waistband or in a holster?

17 A. Then it would have to be authorized by Creve
18 Coeur.

19 Q. Okay. Thank you.

20 MS. RANDLES: Nothing further. Read and
21 sign?

22 MS. OWENS: Yeah. Yeah.

23

24

25

CAPTAIN GEORGE MICHAEL HODAK, 2/26/09

STATE OF _____)
COUNTY OF _____)
)
)

I, CAPTAIN GEORGE MICHAEL HODAK, do hereby certify:

That I have read the foregoing deposition;

That I have made such changes in form and/or substance to the within deposition as might be necessary to render the same true and correct;

That having made such changes thereon, I hereby subscribe my name to the deposition.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this _____ day of _____,
20_____, at _____.

CAPTAIN GEORGE MICHAEL HODAK

My Commission Expires: _____

Notary Public: _____

Signature page and witness letter delivered to
Sandberg, Phoenix & von Gontard, P.C.

TLM/Captain George Michael Hodak, 2/26/09
John Doe HM -v- City of Creve Coeur, et al. Case No.
4:07CV00946 ERW.

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NOTARIAL CERTIFICATE

STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS)

I, TAMI L. MOSS, a Registered Professional Reporter, Certified Court Reporter, and a duly commissioned Notary Public within and for the State of Missouri, do hereby certify that on February 26, 2009, there came before me at the law firm of Chackes, Carlson & Spritzer, LLP, 230 South Bemiston, Suite 800, Clayton, Missouri 63105,

CAPTAIN GEORGE MICHAEL HODAK,

who was by me first duly sworn to testify to the truth and nothing but the truth of all knowledge touching and concerning the matters in controversy in this cause; that the witness was there upon carefully examined under oath and said examination was reduced to writing by me; and that the signature of the witness is reserved by agreement of all parties, and that this deposition is a true and correct record of the testimony given by the witness.

I further certify that I am neither attorney nor counsel for nor related nor employed by any of the parties to the action in which this deposition is taken; further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this 3rd day of March, 2009.

My commission expires June 27, 2011.

NOTARY PUBLIC
Tami L. Moss, C.C.R. No. 1030

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